

DEVELOPMENT AGREEMENT

This Agreement is entered into between the City of Nevada, Iowa (the "City") and R. Friedrich and Sons, Inc., (the "Developer") as of the 14th day of ~~September~~ ^{NOVEMBER}, 2013 (the "Commencement Date").

WHEREAS, the City has established the Nevada Urban Renewal Area (the "Urban Renewal Area") and has adopted a tax increment ordinance for the Urban Renewal Area; and

WHEREAS, the Developer owns certain property in the Urban Renewal Area, the legal description of which is set out in Exhibit A hereto (the "Property"), and the Developer intends to develop the single and multi-family housing (the "Housing Project") on the Property, including the construction of certain public improvements in connection therewith (the "Infrastructure Project"); and

WHEREAS, the Developer has requested that the City provide tax increment financing assistance for the Infrastructure Project; and

WHEREAS, the assessed valuation of the Property as of January 1, 2012 was \$19,300 (the "Base Value"); and

WHEREAS, the City Council is willing to provide tax increment financing assistance to the Developer in order to assist in paying the cost of the Infrastructure Project; and

1 WHEREAS, the Iowa Urban Renewal law requires that any project related to housing which receives tax increment financing assistance must also generate funds to be used to provide assistance related to housing for low and moderate income families; and

2 WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons; and

NOW THEREFORE, the parties hereto agree as follows:

A. Developer's Covenants:

1. Housing Project, Subdivision, and Infrastructure Project Construction. The Developer agrees to construct the Housing Project on the Property in accordance with the details and timeline as set forth on Exhibit B hereto. The Developer agrees to work with the City to submit a proposed, detailed site plan (the "Site Plan") for the development of the Housing Project to the City for approval by no later than November 1, 2013. Prior to beginning construction of the Housing Project, the Developer will subdivide the Property in accordance with applicable ordinances and regulations and will provide copies of all preliminary and final engineering studies, surveys, plans, and specifications ("engineering documents") related to the Infrastructure Project.

3 2. **Infrastructure Project Construction and Costs.** The Developer agrees to cause the construction of the Infrastructure Project in accordance with the timeline and specifications set forth on Exhibit C hereto. The City may request reasonable changes in the engineering documents, to ensure compliance with any applicable ordinances or regulations.

The City shall retain all rights to inspect the Infrastructure Project for quality of work and full compliance with City Code. Nothing in this subsection shall be interpreted as limiting the City's rights to not accept the work if the Infrastructure Project is not completed as provided in the approved engineering documents.

Upon completion of the Infrastructure Project, provided that (i) such improvements are of the type ordinarily dedicated to the City in connection with housing development projects; (ii) and the City confirms to the Developer in writing that such completed improvements meet City requirements; and (iii) the City accepts such Infrastructure Project in accordance with State law, the Developer will provide the City with either a deed or permanent easement to the improvements and related right-of-way comprising the Infrastructure Project, which shall thereafter be maintained by the City.

Furthermore, upon completion of the Infrastructure Project, the Developer agrees to provide documentation, in such form as may be requested by the City, of the costs incurred in the completion thereof (the "Infrastructure Costs"). Such costs may include all infrastructure-related land acquisition costs, cost of designing and constructing the improvements, landscaping and grading all land for public improvements, interest expense and other costs of financing, and other reasonably related costs of carrying out the Infrastructure Project, including legal fees as provided for in this Agreement. The Infrastructure Costs shall not include such cost as are incurred in the completion of the Housing Project.

Each documentation of the Infrastructure Costs made under this Section will be accompanied by invoices, and such other documentation as is reasonably requested by the City, confirming that the costs detailed in such documentation were in fact incurred in the installation of the Infrastructure Project that such costs are of an amount reasonably to have been expected with respect to such installation. If City does not accept any cost proposed by Developer as Infrastructure Costs, City shall notify Developer in writing of the costs not accepted and the reasons therefor. Upon acceptance of such demonstrated costs, the City shall record a summary of the date, amount and nature of the costs on the Summary of Accepted Infrastructure Costs attached hereto as Exhibit D, and such summary shall be the official record of the Infrastructure Costs for purposes of tallying the maximum amount of Payments (as hereinafter defined) allowed to the Developer under this Agreement.

3. **Developer's Certifications - TIF Estimates.** The Developer agrees to certify to the City by no later than October 1 of each year during the term of this Agreement the estimated amount of Incremental Property Tax Revenues anticipated to be paid with respect to the taxable incremental property valuation for the Property in the fiscal year immediately following such certification (the "Developer's Estimate"). Incremental Property Tax Revenues are produced by multiplying the consolidated property tax levy (city, county, school, etc.) times the incremental valuation of the Property associated with each Phase, then subtracting debt service levies of all taxing jurisdictions, subtracting the school district physical plant and equipment levy and

instructional support levy and subtracting any other levies which may be exempted from such calculation by action of the Iowa General Assembly.

4. **Legal and Administrative Costs.** The Developer hereby agrees to cover the actual, reasonable legal fees and administrative costs incurred by the City in connection with the drafting, negotiation and authorization of this Agreement, including the prerequisite amendment to the urban renewal plan, up to an amount not in excess of \$5,000. The Developer agrees to remit payment to the City within 30-days of the submission of reasonable documentation by the City to the Developer evidencing such costs.

5. **Remedy.** The Developer hereby acknowledges that failure to comply with the requirements of this Section A, will result in the City having the right to withhold the Payments under Section B of this Agreement at its sole discretion, such right being additional to the right of annual appropriation as set forth in Section B.2 below.

6. **Abatement.** In consideration of the tax increment financing payment provided in this Agreement and other good and valuable consideration, Developer and City agree that the Housing Project shall not be eligible for the urban revitalization tax exemption (abatement) otherwise available on new construction.

4 B. **City's Covenants:**

1. **Payments.** In recognition of the Developer's obligations set out above, the City agrees to make 22 semiannual economic development tax increment payments (the "Payments") to the Developer in each fiscal year as hereinafter set forth in this Agreement pursuant to Chapters 15A and 403 of the Code of Iowa, provided, however, that the total Payments over the term of the Agreement shall not exceed an amount (the "Payment Ceiling") equal to the lesser of (i) \$800,000 or (ii) the demonstrated Infrastructure Costs, as recorded on Exhibit D, and all Payments under the Agreement shall be made subject to annual appropriation by the City Council as hereinafter set forth.

The Payments will be made on December 1 and June 1 of each fiscal year, beginning on the first December 1 for which incremental property tax revenues become available with respect to the Property, and continuing for a total of eleven (11) fiscal years, or until such earlier time as total Payments equal to the Payment Ceiling have been made. It is anticipated that new incremental property valuation relative to the Housing Project will go on the property tax rolls as of January 1, 2015, and thus the first Payment would be made on December 1, 2016 with the final Payment to be made on June 1, 2027.

Each Payment shall be in an amount which represents the Incremental Property Tax Revenues received by the City with respect to the incremental valuation of the Property resulting from the Housing Project during the six months immediately preceding such payment date reduced by the LMI Amount as set forth in Section B.4 below.

2. **Security and Annual Appropriation.** The Payments shall not constitute general obligations of the City, but shall be made solely and only from Incremental Property Tax

Revenues received by the City from the Story County Treasurer which are attributable to the Property with the Housing Project thereon.

Each Payment shall be subject to annual appropriation by the City Council. Prior to December 1 of each year during the term of this Agreement, the City Council shall consider the question of obligating for appropriation to the funding of the Payments and the LMI Amount due in the following fiscal year, an amount of Incremental Property Tax Revenues to be collected in the following fiscal year equal to or less than the most recently submitted Developer's Estimate (the "Appropriated Amount").

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payments scheduled to become due in the following fiscal year, and the Developer will have no rights whatsoever to compel the City to make such Payments or to seek damages relative thereto or to compel the funding of such Payments in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year's Payments shall not render this Agreement null and void, and the Developer shall make the next succeeding submission of the Developer's Estimate as called for in Section A.3 above, provided however that no Payment shall be made after June 1, 2027.

3. **Certification of Payment Obligation.** In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section B.2 above, then the City Clerk will certify by December 1 of each such year to the Story County Auditor an amount equal to the most recently obligated Appropriated Amount for the funding of the Payments and the LMI Amount due in the next succeeding fiscal year.

5 4. **Low and Moderate Income Set Aside.** On each Payment date, the City shall retain from then-accumulated Incremental Property Tax Revenues received with respect to the Property an amount (the "LMI Amount") equal to such accumulated Incremental Property Tax Revenues multiplied by the minimum percentage required by Section 403.22 of the Code of Iowa (as of the date of this Agreement, such minimum percentage which is applicable to this project in Story County is 43.9%).

The LMI Amount shall be retained by the City for use in the provision of assistance to low and moderate income families, pursuant to Section 403.22 of the Code of Iowa. The Developer may apply to the City for all or a portion of the funds set aside for assistance to low and moderate income families, provided the Developer can document to the satisfaction of the City that housing units which are located on the Property are occupied or reserved to be occupied by families which meet the required income limits of state law. The City reserves the right to allocate funds accumulated through the LMI Amount in any lawful manner of its choosing. Should the Developer choose to submit an application seeking a reduction in the minimum percentage, as set forth above in this Section B.4, as provided in Section 403.22 of the Code of Iowa, the City agrees to cooperate with the Developer in such effort.

C. **Administrative Provisions**

1. **Assignment.** This Agreement may not be amended or assigned by either party without the prior written consent of the other party. However, the City hereby gives its permission that the Developers' rights to receive the economic development tax increment payments hereunder may be assigned by the Developers to a private lender, as security on a credit facility taken in connection with the Housing Project and/or the Infrastructure Project, without further action on the part of the City.

2. **Successors.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. **Term.** The term (the "Term") of this Agreement shall commence on the Commencement Date and end on the date on which the last Payment is made by the City to the Developers under Section B.1. above.

4. **Choice of Law.** This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

The City and the Developer have caused this Agreement to be signed, and the City's seal to be affixed, in their names and on their behalf by their duly authorized officers, all as of the day and date written above.

CITY OF NEVADA, IOWA

By: [Signature]
Mayor

Attest:

[Signature]
City Clerk

R. FRIEDRICH AND SONS, INC.

By: [Signature]
Kurt W. Friedrich, President

Sample provided for discussion

EXHIBIT A

Legal Description of Property

Certain real property in the City of Nevada, County of Story, State of Iowa, locally known as Story County Parcel No. 10-12-150-000, more particularly described as follows:

Outlot T in Indian Ridge Plat 4, Nevada, Iowa.

EXHIBIT B

Description and Timeline for Housing Project

The Housing Project is the creation of 39 buildable lots, two green-space/buffer lots, and one lot for street right-of-way (42 total). Zoning is in place and consistent with the proposed Housing Project. The Developer plans the construction of 13 duplexes (common wall, zero lot-line) townhomes (26 units) and 13 single-family detached (39 total housing units). The Developer reserves the right to construct duplex townhomes on the lots south of the Apache Road extension. The Developer's concept drawing attached.

The approximate timeline for construction of the Housing Project is as follows:

2013/November –	Subdivision platting
2014/May –	Initial housing construction commences
2017/May –	Estimated build-out completed (this is an average of 13 housing units per year, subject, however, to market conditions)

EXHIBIT C

Timeline and Specifications for Infrastructure Project

The Infrastructure Project would consist of public improvements having the following approximate specifications and costs:

Prepared November 13, 2013

Based on Preliminary Plat Design

Item #	Description	Unit	Unit Cost	Site QTY	Site Cost
1	Mobilization (All work items - earthwork, UU, paving, seeding)	LS	\$ 15,000.00	1	\$ 15,000
2	Strip & Respread 9" of Topsoil	CY	\$ 4.00	11,662	\$ 46,647
3	Site Earthwork	CY	\$ 2.50	17,210	\$ 43,026
4	Storm Sewer, 12 Inch Diameter	LF	\$ 40.00	439	\$ 17,560
5	Storm Sewer, 15 Inch Diameter	LF	\$ 45.00	1,087	\$ 48,915
6	Storm Sewer, 18 Inch Diameter	LF	\$ 50.00	25	\$ 1,250
7	Storm Sewer, 8 Inch Diameter Subdrain	LF	\$ 22.00	1,126	\$ 24,772
8	Sump Line Service (Long/Standard)	EA	\$ 750.00	26	\$ 19,500
9	Sump Line Service (Short)	EA	\$ 450.00	13	\$ 5,850
10	Intake, SW-501	EA	\$ 2,500.00	2	\$ 5,000
11	Connect to Existing Storm Manhole	EA	\$ 1,500.00	2	\$ 3,000
12	Beehive Intake	EA	\$ 1,500.00	8	\$ 12,000
13	Storm Manhole	EA	\$ 3,000.00	4	\$ 12,000
14	Connect to Existing Sanitary Sewer Manhole	EA	\$ 1,500.00	1	\$ 1,500
15	Sanitary Sewer Manhole	EA	\$ 3,500.00	6	\$ 21,000
16	Sanitary Sewer, 8 Inch Diameter Pipe	LF	\$ 38.00	1,603	\$ 60,914
17	Sanitary Sewer Service	EA	\$ 1,000.00	39	\$ 39,000
18	Fire Hydrant and Valve Assembly	EA	\$ 3,500.00	7	\$ 24,500
19	Water Main Connection (and relocate end hydrant)	EA	\$ 1,500.00	1	\$ 1,500
20	Water Main, 8 Inch Diameter	LF	\$ 22.00	2,605	\$ 57,310
21	Water Main, Service & Curb Stop	EA	\$ 1,100.00	39	\$ 42,900
22	Water Main, 8 Inch Valve	EA	\$ 1,250.00	6	\$ 7,500
23	Subgrade Prep	SY	\$ 2.50	7,388	\$ 18,470
24	Sidewalk, PCC, 4-Inch	SY	\$ 30.00	180	\$ 5,400
25	Paving - PCC, 7" Thickness	SY	\$ 36.00	6,432	\$ 231,540
26	Sidewalk Handicap Ramps	EA	\$ 750.00	20	\$ 15,000
27	Site Stabilization and Seeding	ACRE	\$ 1,500.00	11	\$ 16,500
28					\$ -
29					\$ -
					\$ -

Comments

Street width is 26 feet.

Right of way width is 60 feet on E-W street.

Right of way width is 50 on side (N-S) streets.

Construction Subtotal =	\$	797,553
Contingency 5%	\$	39,878
Engr. Etc. 15%	\$	119,633
Subtotal =	\$	957,064
Total Developer Cost =	\$	957,064
No. of Lots =		39
Cost per Lot =	\$	24,540

The Infrastructure Project would have an approximate timeline for construction as follows:

2013/Nov – Subdivision platting

2013/Nov-Dec – Grading

2013/Dec – Underground utilities installed

2014/Apr – Street paving

2014/May – Intakes, ramps, seeding, final landscaping completed

Note: Sidewalks constructed with each completed housing unit.